

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of the Joint Application of)
TKC Holdings, Inc., Transferor)
Inmate Calling Solutions, LLC d/b/a)
ICSolutions, Licensee) WC Docket 18-193
and) ITC-T/C-20180612-00109
Securus Technologies, Inc., Transferee)
For Grant of Authority Pursuant to Section 214)
of the Communications Act of 1934, as)
amended, and Sections 63.04 and 63.24 of the)
Commission’s Rules to Transfer Ownership and)
Control of Inmate Calling Solutions, LLC d/b/a)
ICSolutions to Securus Technologies, Inc.)
)

**CONSOLIDATED JOINT REPLY COMMENTS OF TKC HOLDINGS, INC., INMATE
CALLING SOLUTIONS, LLC D/B/A ICSOLUTIONS, AND SECURUS
TECHNOLOGIES, INC.**

Howard M. Liberman
Paige K. Fronabarger
Wilkinson Barker Knauer, LLP
1800 M Street, N.W., Suite 800N
Washington, DC 20036
202-783-4141 (tel)
202-783-5851 (fax)
hliberman@wbklaw.com
pfronabarger@wbklaw.com

*Counsel for TKC Holdings, Inc. and Inmate
Calling Solutions, LLC d/b/a ICSolutions*

Paul C. Besozzi
Peter M. Bean
Squire Patton Boggs (US) LLP
2550 M Street, N.W.
Washington, DC 20037
202-457-6000 (tel)
202-457-6315 (fax)
paul.besozzi@squirepb.com
peter.bean@squirepb.com

Andrew D. Lipman
Russell M. Blau
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave., N.W.
Washington, DC 20004
202-373-6033 (tel)
202-739-3001 (fax)
andrew.lipman@morganlewis.com
russell.blau@morganlewis.com

Counsel for Securus Technologies, Inc.

Dated: July 23, 2018

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For Grant of Authority Pursuant to Section 214 of the Communications Act of 1934, as amended, and Sections 63.04 and 63.24 of the Commission’s Rules to Transfer Ownership and Control of Inmate Calling Solutions, LLC d/b/a ICSolutions to Securus Technologies, Inc.)	

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TKC Holdings, Inc. (“TKC”), Inmate Calling Solutions, LLC d/b/a ICSolutions (“ICS”), and Securus Technologies, Inc. (“STI,” and collectively, with TKC and ICS, “Applicants”), acting through counsel and in accordance with the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice,¹ hereby submit these consolidated joint reply comments in response to five comments² submitted concerning the captioned Joint Application.

¹ *Application Filed for the Transfer of Control of Inmate Calling Solutions, LLC d/b/a ICSolutions to Securus Technologies, Inc.*, Public Notice, DA 18-684 (rel. Jul. 2, 2018) (“Public Notice”). These Consolidated Joint Reply Comments are timely filed in accordance with the Public Notice.

² According to the ECFS, two individuals (Sarah Froio and Sheila Bryan) and two organizations (Human Rights Defense Center (“HRDC”) and Corrections Accountability Project (“CAP”)) timely submitted comments by July 16. Another individual (Andre Wooten) submitted an untimely comment on July 17.

In general, the comments allege potential negative impacts of the transfer on future competitors for contracts and resulting charges to end-users for inmate telephone services (“ITS”). One commenter, referring to the “prison industrial complex,” specifically asserts that STI uses patent rights to exert excessive “control” over competition in the ITS marketplace.

These allegations and assertions are (a) belied by market realities, (b) factually inaccurate or (c) general and unsupported. None of the submissions supports a Commission conclusion that the Joint Application should be denied or delayed or that the grant thereof is not in the public interest.

I. BACKGROUND

On June 12, 2018, the Applicants requested approval of the transfer of control of ICS’s domestic and international Section 214 authority through a transaction involving TKC and Keefe Group, LLC (“Transaction”).³ As a result of the Transaction, ICS would become a wholly-owned subsidiary of STI.

As reflected in the Joint Application, the consummation of the Transaction will not result in an interruption, reduction, loss, impairment, or disruption of any service provided by ICS. The Transaction does not involve a transfer of ICS’s operating authority, assets or customers.

Moreover, the existing ICS management team will remain substantially the same and ICS’s corporate identity, name and operations will remain in place. Post-closing, ICS will

³ *Joint Application of TKC Holdings, Inc., Transferor, Inmate Calling Solutions, LLC d/b/a ICSolutions, Licensee, and Securus Technologies, Inc., Transferee, For Grant of Authority Pursuant to Section 214 of the Communications Act of 1934, as amended, and Sections 63.04 and 63.24 of the Commission’s Rules to Transfer Ownership and Control of Inmate Calling Solutions, LLC d/b/a ICSolutions to Securus Technologies, Inc.,* WC Docket 18-193 (filed June 12, 2018), ITC-T/C-20180612-00109 (filed June 12, 2018) (“Joint Application”).

remain operational as a separate business from STI and its parent entities. ICS will continue to honor its correctional facility contracts and in doing so will continue to provide and support the technologies and services enjoyed by its customers.

Any future changes in the rates, terms and conditions of service to ICS's correctional facility and end-user customers will be undertaken in accordance with the applicable federal and state law, including notice and tariff requirements and ICS's contractual obligations. As a result, the change in ownership will be entirely transparent to ICS's correctional facility customers and the end-users of ICS's services. Again, rates, terms and conditions of service, which are governed in part by contractual relationships between ICS and governmental agencies (as well as tariffs where required), will not change while such contracts remain in force.

Approval of the Transaction will not foreclose the opportunity for continued competitive bidding to provide ITS to facilities in various states in which STI and ICS operate. As the Commission and commenters know, there are a number of ITS providers operating across the U.S.

Additionally, after closing, and where permitted by the governmental entities operating the correctional facilities serviced by ICS, inmates who use the ICS services now will have access to the use of inmate tablets that provide controlled internet access, including, as part of that program, access to education (*e.g.*, the ability to obtain a GED), media content and job opportunities upon release. Inmate calling can also be permitted from such tablets, further facilitating the ability of inmates to connect with their friends and family. ICS's correctional facility customers also will gain access to STI-developed advanced technology, including an expanded set of law enforcement-related service and investigative technologies offered by STI.

None of the commenters specifically addresses or substantively contests these representations.

II. COMMENTER CLAIMS ARE BELIED BY MARKET REALITIES, FACTUALLY INACCURATE, OR GENERAL AND UNSUPPORTED

The commenters generally assert that approval of the Transaction will inevitably lead to reduced competition in the form of fewer bidders on ITS contracts, particularly those for larger facilities. None of the comments contains any analysis of recent bidding in the marketplace to support this assertion.⁴ Yet, a genuine review of what actually has occurred in the market indicates that there are ample competitors other than ICS, STI and Global Tel*Link Corporation who compete and win such contracts, even at facilities with average daily inmate populations of 1,000 or more.⁵

The Applicants address a number of these issues in detail in their concurrently filed Opposition to a formal petition to deny the Joint Application filed by the Wright Petitioners and others, particularly as it relates to competitive bidding options.⁶ As demonstrated therein, bald assertions that after the Transaction STI will have “control over many of its supposed

⁴ For example, Sheila Bryan asserts that following the acquisition of ICS “Securus will become the largest company in the industry by nearly any measure.” *See Comments of Sheila Bryan*, WC Docket No. 18-193 (filed Jul. 16, 2018) (“Bryan Comments”). Ms. Bryan provides no economic or other analysis to support this allegation; nor does she define what “any measure” might be.

⁵ The commenters do not define what they mean by larger facilities.

⁶ *Opposition to Petition to Deny by The Wright Petitioners, Citizens United for Rehabilitation of Errants, Prison Policy Initiative, Human Rights Defense Center, The Center for Media Justice, Working Narratives, United Church of Christ, OC Inc., and Free Press*, WC Docket 18-193; ITC-T/C-20180612-00109, at 15-28 (filed Jul. 23, 2018). The information provided therein is hereby incorporated by reference.

competitors” and there will be the “end [of] competitive bidding for contracts” are wholly without realistic basis in the marketplace.⁷

Moreover, claims in support of these unfounded assertions are false. For example, CAP claims that, as part of “a . . . campaign . . . to remove its competition through acquisitions,” STI has spent “almost \$600 million since 2012 swallowing up its smaller competitors.”⁸ The article upon which CAP relies in support of this statement states that the company “has made 17 acquisitions totaling \$596.75 million” since 2012.⁹ Nowhere in that article is it alleged that STI’s acquisitions have been of competitors in the ITS market, and the assertion is flat out wrong.

In addition to ITS, STI offers a number of ancillary services to its correctional facility and end-user customers. STI has facilitated the technological development and deployment of those services in part by acquiring businesses that developed or deployed those ancillary services. The proposed Transaction is STI’s first acquisition of a provider of ITS.

CAP makes further accusations that STI acquires and uses patent rights and litigation threats to thwart ITS competition and somehow gain “a stake in the businesses of many” competitive providers.¹⁰ First, STI has developed all of its major patents internally and, like any business, has a legitimate and justifiable right to protect its substantial investments in that regard.

⁷ *Comments of the Corrections Accountability Project*, WC Docket No. 18-193, at 1 (Jul. 16, 2018) (“CAP Comments”).

⁸ *Id.* at 2.

⁹ Eric Markowitz, *Amid Death Threats, An Embattled Prison Phone Company CEO Speaks Out*, International Business Times, Jan. 26, 2016, available at <https://www.ibtimes.com/amid-death-threats-embattled-prison-phone-company-ceo-speaks-out-2276551>.

¹⁰ See CAP Comments at 3; see also *id.* at 2 (alleging that STI hoards intellectual property and is a frequent patent litigator and troll).

The fact that STI exercises such legal rights does not translate into control over any competitor ITS providers.

Second, STI has had an amicable long-term patent licensing agreement with ICS. STI has no patents that prevent an ICS competitor from bidding successfully, and, in particular, competing for the business currently sought by ICS. STI currently licenses its patented technology to various ITS competitors that allows them to conduct their respective businesses without fear of patent infringement lawsuits. STI is currently not pursuing patent litigation against any ITS provider. ICS has no patents relating to its ITS platform. Thus, the Transaction will have no net effect at all on the holdings of patents within the ITS industry. And contrary to CAP's uninformed assertions, there are no barriers (either with respect to STI or ICS) that would make it more difficult for various competitors of ICS from bidding successfully for ICS opportunities.

Finally, the commenters' claims that rates for ITS will unquestionably rise¹¹ ignore the Joint Application's express representation that there will be no changes in ICS's rates, terms and conditions under the contracts that ICS currently has in place.¹² Thereafter, any changes in such rates would be in accordance with applicable Federal or state requirements, including applicable rate caps or tariffing requirements.¹³ Commenters' bare assertions are without support in the

¹¹ See e.g., CAP Comments at 5; *Comments of Sarah Froio*, WC Docket No. 18-193 (filed Jul. 13, 2018); *Bryan Comments*.

¹² See Joint Application at 4; *supra* Section I.

¹³ In addition to being filed late, Mr. Wooten bases his comments on complaints about rate and billing procedures at the Oahu Community Correctional Center ("OCCC") in Hawaii. Neither STI nor ICS currently provides services in Hawaii. The OCCC is in fact served by GlobalTel*Link Corporation, so this comment is irrelevant to the Transaction. See *State of Hawaii, Department of Public Safety, Oahu Community Correction Center*, <http://dps.hawaii.gov/about/divisions/corrections/occc/>.

face of these commitments. Additionally, the commenters fail to recognize that STI does not unilaterally dictate rates or commission levels to its customers. Jail administrators and counties set rate and commission levels after balancing the needs of inmates, friends, family members and those of public safety.¹⁴

III. CONCLUSION

The few commenters lodge unfounded assertions about the impact of the Transaction on ITS competition and rates. As noted in response to the formal petition to deny, there are ample successful competitors even for larger facilities. CAP's claims about STI's defense of its patents to "control" competition are uninformed speculation. Claims about inevitable increases in ITS rates to end users are nothing more than base assertions without evidence and fail to take into account contractual and competitive realities. The Commission should summarily reject all arguments that these comments use to justify rejection or delay in acting on the Joint Application.

¹⁴ HRDC's assertion that the ICS industry "controls the ability of prisoners to communicate with their loved ones" is simply wrong — correctional facility administrators make decisions about when, where and how prisoners are able to communicate. *Comments of the Human Rights Defense Center* WC Docket No. 18-193, at 1 (filed Jul. 13, 2018).

Respectfully submitted,

**TKC HOLDINGS, INC.,; INMATE CALLING
SOLUTIONS, LLC D/B/A ICSOLUTIONS;
AND SECURUS TECHNOLOGIES, INC.**

By: Howard M. Liberman
by PCB

Howard M. Liberman
Paige K. Fronabarger
Wilkinson Barker Knauer, LLP
1800 M Street, N.W., Suite 800N
Washington, DC 20036
202-783-4141 (tel)
202-783-5851 (fax)
hliberman@wbklaw.com
pfronabarger@wbklaw.com

*Counsel for TKC Holdings, Inc. and Inmate
Calling Solutions, LLC d/b/a ICSolutions*

By: Paul C. Besozzi

Paul C. Besozzi
Peter M. Bean
Squire Patton Boggs (US) LLP
2550 M Street, N.W.
Washington, DC 20037
202-457-6000 (tel)
202-457-6315 (fax)
paul.besozzi@squirepb.cpm
peter.bean@squirepb.com

Andrew D. Lipman
Russell M. Blau
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave., N.W.
Washington, DC 20004
202-373-6033 (tel)
202-739-3001 (fax)
andrew.lipman@morganlewis.com
russell.blau@morganlewis.com

Counsel for Securus Technologies, Inc.

Dated: July 23, 2018

DECLARATION OF DENNIS J. REINHOLD

I, Dennis J. Reinhold, hereby declare under penalty of perjury as follows:

1. I am the Senior Vice President and General Counsel of Securus Technologies, Inc.;
2. I have read the attached Consolidated Reply Comments Of TKC Holdings, Inc., Inmate Calling Solutions, LLC D/B/A ICSolutions and Securus Technologies, Inc., which were prepared pursuant to my direction and control;
3. This Declaration is submitted in support of the foregoing Consolidated Reply Comments; and
4. The allegations of fact contained in the Consolidated Reply Comments are true and correct to the best of my knowledge and belief.

Dated: July 23, 2018



Dennis J. Reinhold

CERTIFICATE OF SERVICE

I, Peter M. Bean, certify on this 23rd day of July 2018, a copy of the foregoing “**Consolidated Joint Reply Comments of TKC Holdings, Inc., Inmate Calling Solutions, LLC d/b/a ICSolutions, and Securus Technologies, Inc.**” were served via First Class Mail and/or Electronic Mail (as indicated below) to the following:

Via US Mail to the Following:

Ms. Sarah Froio
75 Mt. Auburn Street
Cambridge, MA 02138

Ms. Sheila Bryan
4704 Amorosa Way
San Antonio, TX 78261

Mr. Andre S. Wooten
1188 Bishop Street, Ste. 1908
Honolulu, HI 96813

Human Rights Defense Center
P.O. Box 1151
Lake Worth, FL 33460

Corrections Accountability Project
40 Rector Street, 9th Floor
New York, NY 10006

Via Electronic Mail to the Following:

Jodie May, Competition Policy Division,
Wireline Competition Bureau,
Federal Communications Commission
445 12th Street SW
Washington, DC 20554
jodie.may@fcc.gov

Jim Bird, Office of General Counsel,
Federal Communications Commission
445 12th Street SW
Washington, DC 20554
jim.bird@fcc.gov

Sumita Mukhoty, International Bureau,
Federal Communications Commission
445 12th Street SW
Washington, DC 20554
sumita.mukhoty@fcc.gov



Peter M. Bean
Squire Patton Boggs (US) LLP
2550 M Street, NW
Washington, DC 20037
202-457-6625 (tel)
202 457-6315 (fax)
peter.bean@squirepb.com

Counsel for Securus Technologies, Inc.